

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Acceleration of Broadband Deployment)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost)	
of Broadband Deployment by Improving)	
Policies Regarding Public Rights of Way and)	
Wireless Facilities Siting)	

REPLY COMMENTS OF THE CITY OF YUMA, ARIZONA

The City of Yuma, Arizona, files these reply comments to respond to the Commission’s Notice of Inquiry (“NOI”),¹ and to address a false claim made against Yuma by the PCIA-The Wireless Infrastructure Association and The DAS Forum.² The City supports comments filed by the National League of Cities, *et al.*³

I. PCIA FALSELY IDENTIFIES YUMA AS A CITY THAT USES PROBLEMATIC CONSULTANTS.

PCIA incorrectly identifies Yuma as one of the communities that employs “problematic consultants.”⁴ It states that “[w]ireless consultants are the source of many of

¹ Notice of Inquiry, WC Docket No. 11-59, FCC 11-51 (Apr. 17, 2011) (“NOI”).

² Comments of PCIA-The Wireless Infrastructure Association, WC Docket No. 11-59 (July 18, 2011).

³ Comments of the National League of Cities *et al.*, WC Docket No. 11-59 (July 18, 2011).

⁴ PCIA Initial Comments, Exhibit B, at 11.

the barriers and prohibitive costs associated with the deployment of wireless facilities. It is common practice for these consultants to charge excessive application fees, impose superfluous application requirements (including proof of need), require discretionary review for collocations, and delay the application and review process.”⁵

On its face, PCIA’s Exhibit B is allegation without substance or support. PCIA does not identify who the problematic consultants might be. It does not describe any case in which Yuma delayed siting, charged an excessive fee, or requested information that was superfluous (PCIA also omits this information for most of the other communities on Exhibit B). Given the Commission’s call for entities to “describe the actions that are specifically cited as an example of a barrier to broadband deployment,”⁶ the Commission has reason enough to ignore the Exhibit, even if the communities listed actually employed consultants.

But PCIA’s claims fare even worse when they are examined. The Commission has already received comments from several communities identified on Exhibit B who do not use consultants to review wireless applications at all.⁷ Yuma is another. The list is now long enough to raise questions concerning the integrity of the PCIA Initial Comments as a whole. Certainly, the Commission cannot rely on PCIA’s claims without independently investigating and verifying them. PCIA appears to have attempted to

⁵ *Id.*

⁶ NOI ¶ 9.

⁷ City of Auburn Letter, WC Docket No. 11-59 (Aug. 22, 2011); Comments of City of Wichita, Kansas, WC Docket No. 11-59 (Sept. 1, 2011).

create the appearance of a mass of problems by manufacture (the throw enough mud and it will stick approach). To be clear:

(a) Yuma did not use consultants to develop its wireless ordinance. Actually, Yuma developed its ordinance in 1999-2000 with the assistance of a committee that included six industry representatives, and a representative of the local power company. PCIA is objecting to an ordinance that the wireless industry helped create.

(b) Yuma does not use consultants to review applications for placement of wireless facilities inside or outside of the rights-of-way.

(c) The City has not used consultants to determine whether a facility is entitled to a special use permit or to provide technical advice to the County as to whether particular facilities are required to fill a significant gap in coverage.

(d) The City has not otherwise used consultants for wireless facility placement (e.g. to assess whether allowing an attachment to City-owned property would interfere with City functions). It has, of course, used consultants in connection with the 800 MHz transition and in its efforts to help develop wireless interoperability in the 700 MHz public safety band.

The City may of course choose to use consultants in the future. It uses consultants in contexts where it does not have particular expertise, and where it would be too costly to maintain the expertise on staff. For example, the City may need consultants to examine the industry's technical claims; PCIA list illustrates that it can be dangerous for a community to rely on statements by a self-interested entity. In Yuma's experience, cities do not lightly retain consultants, and generally do so where it leads to greater efficiency, or better and more reliable results than could be obtained otherwise.

II. YUMA’S EXPERIENCE SHOWS THAT THE WIRELESS INDUSTRY’S APPROACH TO SITING, COLLOCATION AND DISCRIMINATION WILL CREATE, RATHER THAN SOLVE PROBLEMS.

Yuma’s experience shows that the wireless industry’s proposed approach to siting, collocation, and discrimination will create, rather than solve, problems. Yuma strongly supports wireless and wireline broadband deployment, and it generally encourages collocation. The City has approved many towers, and has denied only one tower siting request – recently as it happens. This is also the *only* request that took more than four months for the City to process. The details of the case highlight why the industry’s proposed approach is unwise.

The industry appears to seek a federal rule that would apply a single set of standards to all property, even with respect to collocation. For example, PCIA suggests that collocation should be permitted almost routinely:

When a tower is initially permitted, it passes the jurisdiction’s health, safety and welfare review with regards to its placement and its use for the provision of wireless services. The collocation of additional antennas that do not substantially change the size of the tower should not trigger a full zoning review because: public health issues (i.e., RF emissions) are by statute exclusively within the purview of the FCC; safety issues are addressed through the submission of an engineering report stamped by a licensed engineer at the building permit stage; and welfare issues (typically aesthetics, property value, etc.) are not an issue because the tower itself is essentially unchanged.⁸

Yuma’s experience shows that PCIA grossly understates the potential impact of collocation, and ignores reasons why collocation, even if encouraged and preferable in many areas, must be reviewed closely in others. Yuma maintains a significant historic district, which includes the Yuma Territorial Prison (the destination memorialized in the

⁸ PCIA Initial Comments at 19.

movie “3:10 to Yuma.”). The prison is part of Yuma Crossing, listed on the National Register of Historic Places and a U.S. National Heritage Area. The placement of new wireless facilities (including new collocation facilities) in or around this area is obviously problematic. Nonetheless, Reliant Land Services, Inc., filed an application to place a new, 75 foot tower in the historic district, near the Territorial Prison.⁹ It proposed to “disguise” the tower as an historic water tower, but the design would have dominated the landscape, and been inconsistent with any structure that had ever existed in the area. It would have turned a national historic preservation district into a faux historical site. This was of particular concern to the City because the Yuma Crossing had been classified as a threatened site, and the City and volunteer organizations have devoted a significant amount of money to restoring it.

The application was denied, and the company appealed the ruling to the State agency responsible for assessing the impact of developments on historic areas under the National Historic Preservation Act. On August 24, the agency concluded that the proposed tower would have an adverse effect on an historic site. The most recent staff report recommending denial and the letter from the Arizona State Parks finding an adverse impact are attached, and provide some sense of the effort that is involved in assessing whether a project should be permitted in the area.

If the application had proposed to integrate an antenna unobtrusively into an existing structure, it may have been permitted. But the case illustrates the difficulty of establishing a federal rule that would apply a single set of standards to all property. PCIA

⁹ Reliant was presumably acting on behalf of a wireless provider, but as is often the case, the applicant for the tower is not the provider itself, but a subcontractor acting on its behalf.

seems to assume that if Yuma allowed any provider to install a facility, its members should be free to add additional facilities and associated equipment—no matter the facilities’ design or impact on the preservation area. In some cases, it may be that a particular area can support a single wireless facility, but additional facilities would defy the area’s historic design. In fact, the application discussed above assumed that collocators *would* be able to simply attach antennas to the underside of the faux water tower, making the tower even less authentic, and less disguised.

To be clear, the City is not pre-judging the issue, but a collocation rule that effectively says “if any is allowed, more must be” would force the City to either exclude wireless altogether, or to abandon its efforts to protect the integrity of the historic district. Likewise, a non-discrimination rule could create similar Hobson’s choices. A rule that required the City to allow multiple antennas if it allowed any would have that impact (imagine a rule that said that if one wireless antenna was allowed on the grounds of the Arlington Cemetery, an unlimited number must be). Similarly, when PCIA claims that its members’ facilities must be treated exactly the same as wireline facilities, it ignores obvious differences between the two. A wireline facility can be placed underground; wireless facilities cannot. A *telegraph* pole might be consistent with an historic district, but a cell tower of 75 feet might not be. Does the Commission really intend to require localities to adopt a rule that, as the price of protecting against inappropriate placement of towers, requires locality to deny appropriate placement of wireline facilities? Section 332(c)(7) wisely does not force these choices, and neither should the Commission.

Other areas of Yuma where facility placement may be especially problematic likewise illustrate that the industry’s approach is over-simplistic, and that the existing

system works better. Yuma is home to the Marine Corp Air Station (“MCAS”), and approximately 4,000 active duty Marines and sailors. The base has access to 2.8 million acres of bombing and aviation training ranges and superb flying weather. Yuma supports 80 percent of the Marine Corps' air-to-ground aviation training. The air station annually hosts approximately 70 aviation units, bringing an average of 600 aircraft and 14,000 personnel for ongoing training that takes place throughout the year.

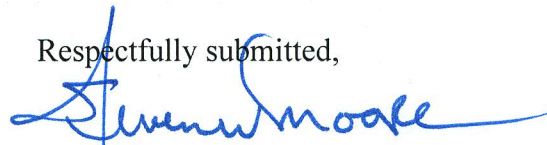
Because of this, Yuma’s land use policies must ensure that structures do not interfere with the bases’ vital operations. For example, the City is very sensitive to ensuring that structures do not interfere with the glide path that is used by aircraft that use the facility. Under PCIA’s model ordinance and its proposed collocation rule, however, a tower would have to be permitted without consideration of its effect on safety, and a tower could be increased in size, as long as the increase was not “substantial.” Near the MCAS, any increase could create problems. The City must be able to act accordingly. To account for these factors, the City’s zoning process encourages the placement of towers in certain areas, while requiring providers to obtain exceptions in others. As noted above, the City is not opposed to, and generally supports collocation, but collocation sometimes may raise issues that the original facility did not (because of its stealth design, bulk, height or other factors). A federal rule written for Yuma might be completely inappropriate in other communities; and likewise, the sort of national model proposed by PCIA would be inadequate to address Yuma’s issues effectively. This is no doubt why Congress adopted a community-by-community approach, and why mandated uniformity would be ineffective and disruptive.

CONCLUSION

The allegations aimed at Yuma are simply false. Yuma has addressed its facility placement issues in cooperation with industry, and providers are able to deploy in the City. Local solutions work. The one case in which the City denied an application illustrates that the industry's proposed approach is problematic.

Yuma therefore strongly urges the FCC to refrain from regulating local right-of-way and facility placement processes. These are highly fact-specific matters, which turn on local engineering practices, local environmental and historical conditions, local traffic and economic development patterns, and other significant community concerns and circumstances. These matters are managed by local staffs. A federal regulatory regime would create unnecessary costs for our community, and it could undermine important local, state, and national policies that the FCC is not in a position to address effectively.

Respectfully submitted,



Steven W. Moore
City Attorney,
City of Yuma, Arizona

September 29, 2011

ATTACHMENT 1

**STAFF REPORT TO
THE DESIGN AND HISTORIC DISTRICT REVIEW COMMISSION**



**STAFF REPORT TO
THE DESIGN AND HISTORIC DISTRICT REVIEW COMMISSION
CASE #: DH 2011-030
DEPARTMENT OF COMMUNITY DEVELOPMENT
HISTORIC PRESERVATION AND ARCHITECTURAL DESIGN SECTION**

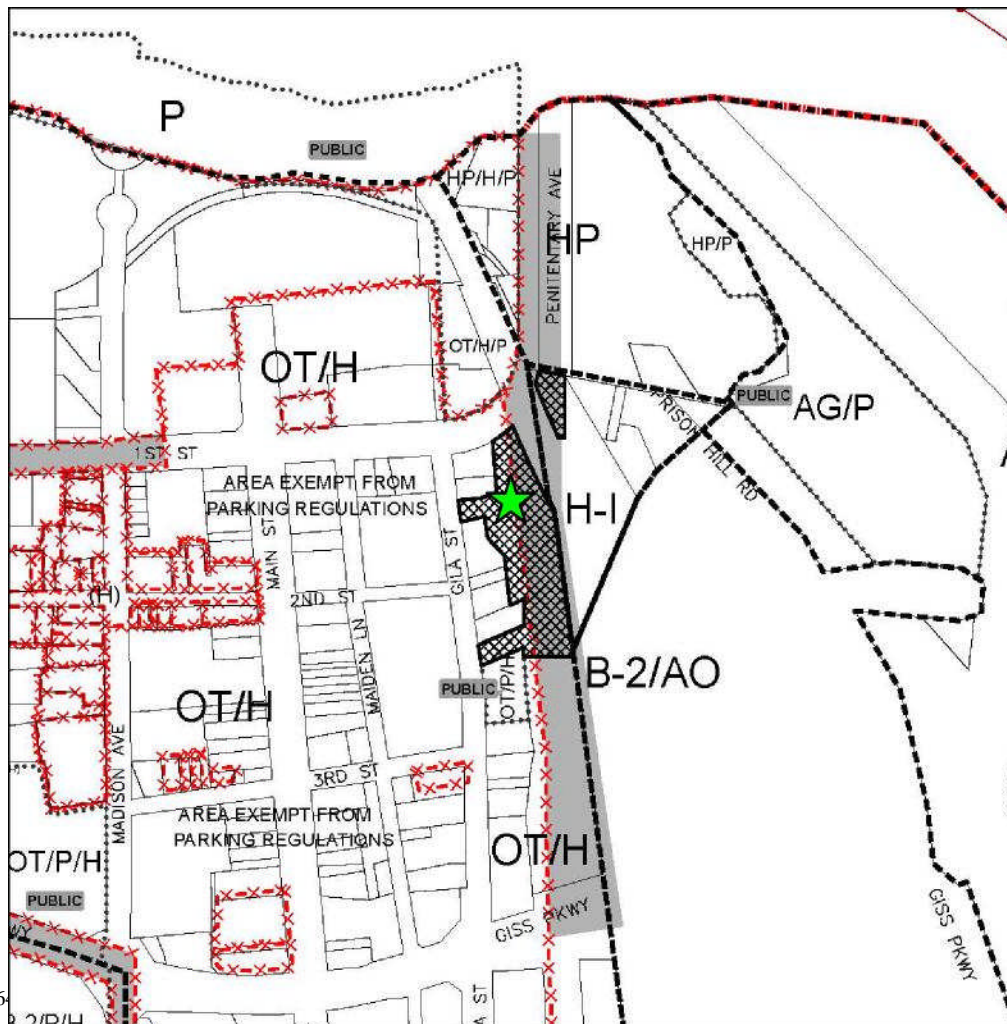
Hearing Date: September 28, 2011

Project Planner: Bob Blevins, Principal Planner

E-mail: Robert.Blevins@YumaAZ.gov

Project Description: This is an appeal of the Zoning Administrator's disapproval of a proposal for a disguised personal communication facility near the southeast corner of Gila Street and 1st Street, Yuma, Arizona.

Location Map:



Location Specific Information:

Aesthetic Overlay:	N/A
Historic District:	Main Street
Parcel Number:	633-37-041
Historic Listing Status:	Not listed
Address:	125 S. Gila Street
Property Owner: Property Owner's Agent	Union Pacific Railroad Reliant Land Services, c/o Reg Destree
Zoning of the Site:	Old Town/Historic Overlay/Bed&Breakfast Overlay (OT/H/BB)
Existing Land Use(s) on the Site:	Railroad equipment
Surrounding Zoning and Land Uses:	
<input type="radio"/> North	OT/H/BB & Historic Park (HP); Public Park
<input type="radio"/> South	OT/H; Vacant
<input type="radio"/> East	Heavy Industrial (H-I); Interstate 8 & Yuma Territorial Prison State Park.
<input type="radio"/> West	OT/H/BB; Restaurant and Public Parking.
Related Actions or Cases:	None
Land Division Status:	Parcel is a legal lot of record.
Flood Plain Designation:	Zone X

Description of Proposed Project / Background / Use:

The applicant is proposing a personal wireless communication facility (cell tower) disguised as a water tower, much like water towers seen along old railroad tracks. Historically, water towers supplied water needed for steam power directly into the stopped locomotive, and were adjacent to the railroad tracks. The proposed faux water tower would be 75 feet tall, would not contain water, or be a reproduction of any prior such structure at this location, or in the Yuma area.

Staff Analysis:**Proposed Tower Does Not Meet Zoning Ordinance Standards**

Normally a disguised cell tower would be designed and placed in such a manner as to blend in and not be noticeable. This 75 foot tall tower would be higher and more conspicuous than any other structures at this location, looming over the elevated freeway. The "tank" at the top of the water tower would be a cylinder 13 feet in diameter and 20 feet in height. Being a replica, either presented as having the bright, clean look of a new tower, or done with an antiqued, faux rust finish appearance, it would grab the attention of travelers on Interstate 8 and be visible above the historic buildings in Yuma's Historic North End. It would be a prominent and memorable new landmark. See concept in Attachment A.

Section 154-19.08(B) of the City of Yuma Zoning Ordinance relating to concealed/disguised personal wireless communication facilities states:

In addition to the general development standards listed in Section 154-19.03, the following development standards shall apply:

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(1) Must be capable of mimicking an indigenous plant form, natural feature or existing architectural feature. All concealed and disguised facilities are subject to the approval of the Zoning Administrator. The decision of the Zoning Administrator may be appealed to the Design and Historic Review Commission;

(3) All disguised and concealed personal wireless communications facilities must blend into the existing environment to the greatest degree possible. Architecture or natural materials used to mimic colors, plants or vegetation found native to southwest Arizona;

(4) All personal wireless communications facilities disguised as natural features cannot exceed the normal size and bulk of the mimicked plant or feature.

The conceptual plans submitted also show "Future Tenant 1 Platform" and "Future Tenant 2 Platform", at an elevation lower than the bottom of the tank (see Attachment B). A concern is that these platforms will become large, protruding boxes below the tank, to be added at later dates as has been the case in other such faux water towers. Examples are shown in Attachment C. Once a cell tower is established, opportunities for collocation by other users become available. In many situations, the City of Yuma encourages collocation on one site; but on this proposal, the abundance of collocations could make the tower even less attractive and "authentic" with an even greater mass, high up in the air.

Laurie L. Lineberry, Community Development Director (The Zoning Administrator) disapproved the tower concept in a June 20, 2011 letter. A copy of that letter is attached as Attachment D. In addition to the new tower not meeting development standards, a number of factors relating to the proposed use and its location were considered by Staff leading to the Zoning Administrator's disapproval of the concept.

In Conflict with Actual History

The Yuma Crossing on the Colorado River was acknowledged to be the safest and easiest way to proceed to and from the Pacific Coast, even prior to the arrival of the Spanish in 1540. Many of the struggles between the Indians and Spaniards were about control of this crossing. The Yuma Crossing was integral to the only all-season overland supply route to the noteworthy string of California Missions, and Yuma was an important transportation hub and inland port for explorers and trappers. Later, as the gold rush took hold, this unique spot along the Colorado River boomed with trade and transportation. The Southern Pacific Railroad rushed to complete the first crossing of the Colorado River in 1877, at the present-day Madison Avenue alignment, allowing rail travel from San Diego to Yuma, with the final transcontinental link towards Tucson completed by 1880.

The source of water for both the railroad and area residents was from the Southern Pacific Railroad Water Settling Reservoir. It was constructed in 1882 on a hill across from the Southern Pacific Hotel in the area of the recently-constructed Hilton Garden Inn and Pivot Point Conference Center on Madison Avenue. Its appearance was that of a long, low-roofed hilltop building. This reservoir had three large compartments of 103,000 gallons each, allowing for the settling of river water sediments. The reservoir was enlarged in 1903 bringing it to an overall length of 210 feet. Water was pumped uphill from the fast-moving river and transferred from each compartment in succession to achieve the needed clarity for steam engine use. A well-known saying from the period

was “The Colorado River is too thick to drink and too thin to plow.” Historic photo in Attachment E.

The new representation of a water tower would be located about 1/3 mile to the east of the original Southern Pacific Railroad Water Settling Reservoir & Madison Avenue railroad tracks. The presence of a new pretend water tower east of Gila Street conflicts with real history. The Southern Pacific Railroad was also the original supplier of water to the town of Yuma in the 1890's from the same reservoir, and railroad tankers of this scarce and valuable commodity from Yuma traveled to other points east and west on the railroad to supply other stops in the desert. Water and the railroad were both key to the settlement of Yuma, with several historic sites preserved and interpreted throughout the Historic North End of Yuma. (Source for background info and Attachment E photo: Southern Pacific Railroad Water Settling Reservoir, Historic Engineering Record of the National Park Service, prepared by Doyle and Associates, 2003)

Next to the location of the settling tank reservoir building, the recently-completed Pivot Point Plaza includes a retired 1907 steam locomotive on tracks aligned with the original Madison Avenue route along with the remains of the concrete pivot point from the swing bridge that spanned the Colorado River. The historic first railroad crossing is delineated with a laser light and sound show, and a number of interpretive panels on the plaza describing the importance of this particular location including details of the notable settling reservoir. There are also pieces of the settling reservoir building on display in the area, with its historic significance noted.

In the 1920's, the Madison Avenue bridge crossing of the Colorado River was discontinued. A new bridge, a version of which is still in use, was built at the present location bridging the narrows- two natural bluffs adjacent to the Ocean-to-Ocean Bridge and Yuma Territorial Prison about 1/3 mile from the original historic Pivot Point Yuma Crossing. The new bridge location, parallel to Gila Street, was more secure from flood damage; that alignment is heavily-used today by diesel electric locomotives.

This brief review of the Yuma Crossing is included to remind us of the importance of preserving accurate representations of Yuma's unique past, and to discourage confusing, generic reproductions of styles and themes from elsewhere.

The location of the proposed new cell tower disguised as a water tower would be a distraction from our real history at a location that never had such a tower. By locating the disguised cell tower on a prominent point at a height greater than any other structure in the historic downtown (more than 30 feet taller than the Interstate 8 bridge) introduces a false historical feature which never existed here. The new tower would be a confusing diversion from all the successful efforts to document and preserve, at great public and private expense, our real history.

To the south of the proposed tower was the location of the 1926 Southern Pacific Railroad Station which burned in 1993. Across the tracks at that location was a water tower of modest height which served the steam locomotives until their replacement with diesel-electric. An example of what that tower might have looked like is in Attachment F. This photo is of a Southern Pacific tank in Maricopa, Arizona around the same time period.

A Negative Visual Effect on Surrounding Historic Properties

The proposed water tank would be located adjacent to the Yuma Crossing National Historic Area, a national landmark (YCNHA). Staff is concerned that the structure will have a negative impact on the historic view shed.

The Yuma Territorial Prison, an individually listed property and contributing property to the YCNHA (proposed to be the backdrop for the proposed tower) will be forever impacted. The height of the new structure is completely out of scale with the surrounding structures; recognizing that the Interstate 8 bridge holds its own place in history as a crossing. Several projects completed at great expense by the City of Yuma and volunteer organizations last year put the landmark prison back into its historic context. Due to the efforts of the City of Yuma and the YCNHA, the National Parks Service has removed the YCNHA from threatened status.

Previously, the Arizona State Historic Preservation Office (SHPO) sent a letter dated April 15, 2011 to the cell tower applicant, stating that they felt there would be “no adverse effect” of locating the tower at the proposed location. Upon further review by the SHPO in a letter dated August 24, 2011, they stated:

“Our staff erred by misinterpreting the proposed stealth water tank as an existing facility with a proposed collocation of cellular antenna. Now that we know that the proposed water tank would be a new facility, we agree with the City of Yuma that the proposed new stealth water tank would result in an adverse effect to historic properties. Therefore, we respectfully request to re-enter National Historic Preservation Act Section 106 consultations regarding the proposed stealth water tower in Yuma, Arizona.”

Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of their actions on historic properties. In this case, the Federal Communications Commission licenses personal wireless communication facilities. The SHPO has been in contact with City Staff to obtain further information for their better-informed determination: The new tower would have an adverse effect on historic properties in the Historic North End of Yuma.

Alternative Sites

In the context that City Staff should not be promoting specific sites and properties that may be more appropriate for locating personal wireless communication facilities, there may be opportunities to: collocate with other providers on existing cell tower sites; possibilities of designing concealed cell sites perhaps on local bridges, existing billboards, tall buildings, existing structures on prominent hills in the area; or a series of smaller cell sites placed along the freeway. If local towers are deemed to be “full” from a structural standpoint, perhaps consideration should be given to replacing some aging cell towers so as to accommodate greater capacity.

Staff Recommendation:

Staff recommends that the Design and Historic Review Commission **AFFIRM** the Zoning Administrator's disapproval of a proposal for a disguised personal communication facility near the southeast corner of Gila Street and 1st Street, Yuma, Arizona.

Suggested Motion: Move to **AFFIRM** the Zoning Administrator's disapproval of a proposal for a disguised personal communication facility near the southeast corner of Gila Street and 1st Street, Yuma, Arizona. This action is in keeping with the Secretary of the Interior's Standards and affirmation of the Zoning Administrator's disapproval does not have an adverse effect on the property, surrounding properties, or the community as a whole.

Final Staff Report delivered to applicant on:

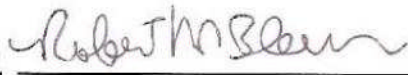


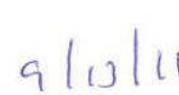
September 15, 2011

Attachments:

- A. Photo Simulation
- B. Tower Elevations
- C. Other Faux Water Towers
- D. June 20, 2011 Disapproval Letter
- E. Historic Settling Reservoir Photo
- F. Period photo of water tower in Maricopa, Arizona
- G. Site Plan
- H. Aerial Photos

Project Planner: Bob Blevins, Principal Planner, ph: 373-5189.

Robert.Blevins@yumaaz.gov

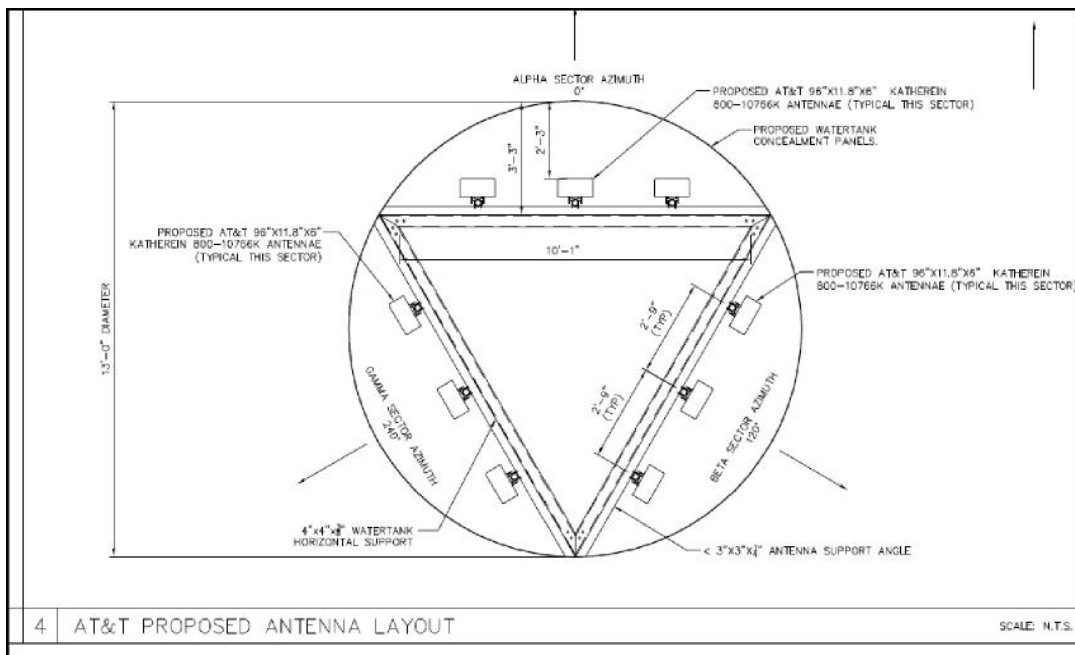
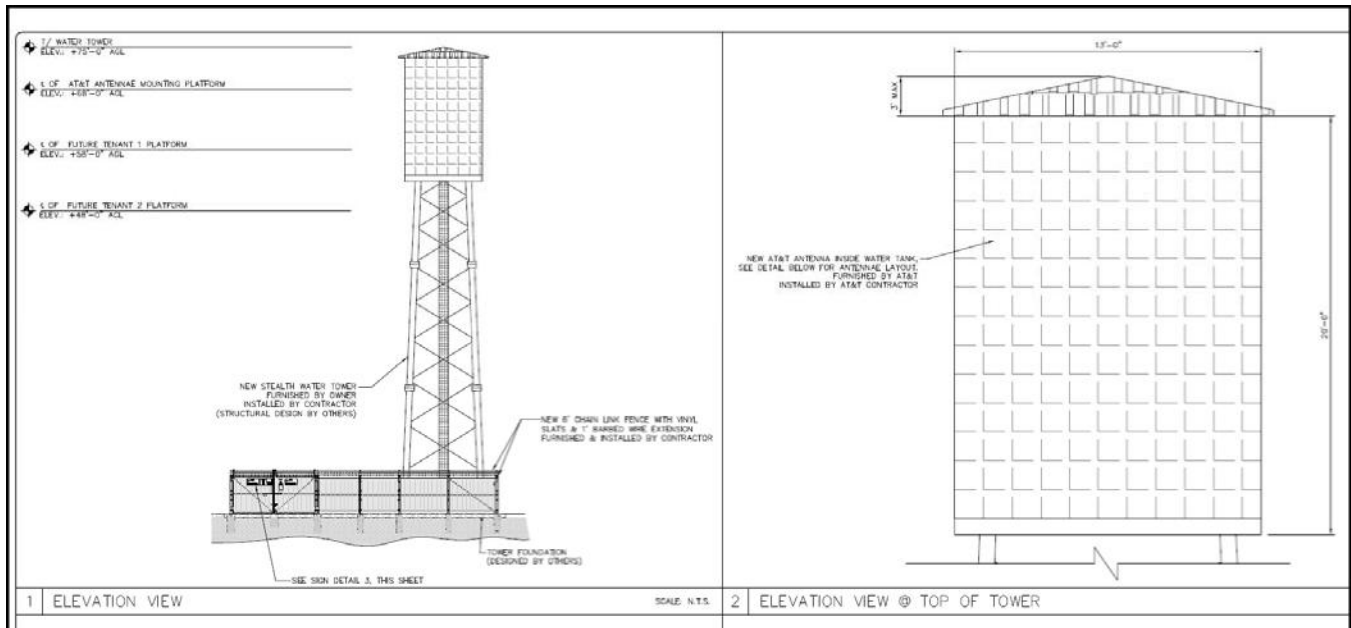
<u>Prepared By:</u>		<u>Date:</u>	
	Bob Blevins, Principal Planner		
<u>Approved By:</u>		<u>Date:</u>	
	Bruce Heckman, Planning Manager		

ATTACHMENT A
Photo Simulation



Proposed West Elevation (View from 1st Street)

ATTACHMENT B Tower Elevations

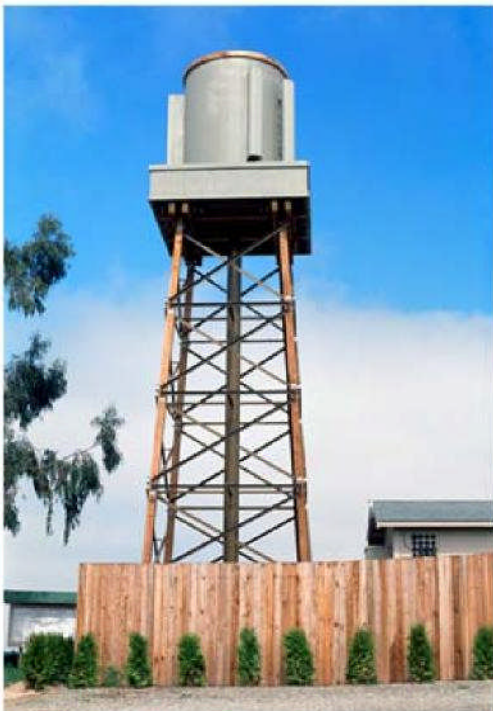
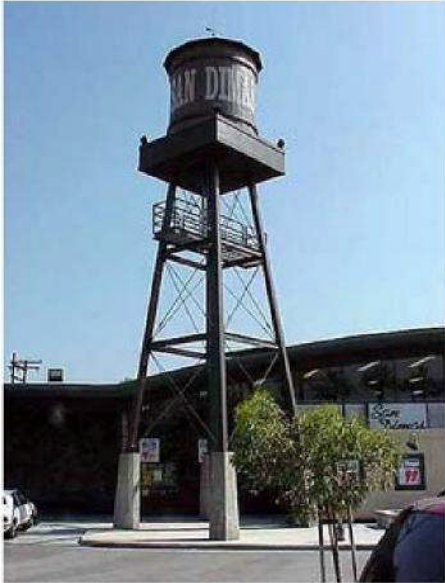


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ATTACHMENT C
Other Faux Water Towers



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ATTACHMENT D
June 20, 2011 Disapproval Letter



City of YUMA

June 20, 2011

Reg Destree
Reliant Land Services, Inc.
3200 N. Hayden Road, Ste 320
Scottsdale, Arizona 85251

Re: Cell site Yuma Union Pacific downtown property, Site ID AZ 12721.

Dear Sir:

This letter is in response to your request for review of the proposed personal communication facility, disguised as an elevated water tank, near the southeast corner of 1st Street and Gila Street in Yuma. Prior to a full submittal to the Design and Historic Review Commission (DHRC), the City of Yuma Zoning Ordinance Section 154-19.08(B) requires all concealed/disguised personal wireless facilities to have the concept approved by the Zoning Administrator. As the Zoning Administrator, I am disapproving the concept for the reasons outlined below.

Section 154-19.08(B) includes the following development standards which the project does not meet:

- The disguised facility must be capable of mimicking an indigenous plant form, natural feature, or existing architectural feature;
- It must blend into the existing environment to the greatest degree possible; and
- It cannot exceed the normal size and plant or bulk of the mimicked feature.

City staff is very concerned about the proposed height of the water tank. It would be on a hilltop above Gila Street. From that hilltop point next to the railroad tracks, it would be another 75 feet higher, with about 40 feet of the water tank's height above the Interstate 8 bridge eastbound traffic deck- an imposing sight as you drive over the bridge. The water tank is not really representative of the height of an old steam engine water tank, which usually had the bottom of the tank only a short distance higher than the train itself.

Another concern is locating the disguised cell tower on a prominent point in the historic downtown and the impact of introducing a false historical feature which never existed in the past at this location. The presence of a new pretend water tank in fact conflicts with the historic use of Colorado River water from the old Southern Pacific Railroad settling tanks. Those tanks (settling ponds) were located about 1/3 mile to the west of the

Character • Commitment • Community

present railroad tracks at the original Madison Avenue Pivot Point railroad river crossing, the first railroad to cross the Colorado River. That railroad was also the original supplier of water to the town of Yuma in the 1880's from those same tanks, and railroad tankers of water from Yuma traveled to other points east and west of Yuma on the railroad in those days. Water and the railroad are both key, well-documented parts of the origins of the settlement of Yuma, with several historic sites preserved and interpreted throughout the area. The addition of this new structure would be a distraction from our real history.

The proposed water tank would be located adjacent to the Yuma Crossing National Historic Area, a national landmark (YCNHA). We are concerned that the structure will have a negative impact on the historic view shed.

The Yuma Territorial Prison, an individually listed property and contributing property to the YCNHA (proposed to be the backdrop for the proposed tower) will be forever impacted. The height of the new structure is completely out of scale with the surrounding structures; recognizing that the Interstate 8 bridge holds its own place in history as a crossing. Several projects completed at great expense by the City of Yuma and volunteer organizations last year put the landmark prison back into its historic context. As a result of the efforts of the City of Yuma and the YCNHA, the National Parks Service has removed the YCNHA from threatened status.

The height of the proposed structure makes it extremely difficult, if not impossible, to interpret it as a railroad water tank. Additionally, it appears that there are options to add more transmitters to this new structure in the future that would be below the proposed water tank. This would diminish, if not negate, the effort to make the tower look like something other than what it is.

From the Colorado Riverfront and Downtown Yuma redevelopment stand point, the proposed structure will likely devalue the adjacent properties and would have a negative impact on the City's effort and tens of millions of dollars of both private and public money spent to improve the look of the downtown, especially as a first impression from Interstate 8.

The subject property is located in the Old Town Zoning District. Proposals for development in this district use *The Secretary of the Interior's Standards for the Treatment of Historic Properties, and Guidelines for the Treatment of Cultural Landscapes*. These standards are used as a guide locally so that the historic district:

Identifies, retains and preserves the existing spatial organization and land patterns of the landscapes as they have evolved over time. Constructing a new structure without considering the history of the property may create new spatial divisions;

Avoids altering buildings and their features or site features which are important in defining the overall historic character of the property so that, as a result, the character is diminished;

Identifies, retains, and preserves buildings and their features as well as features of the site that are important in defining its overall historic character;

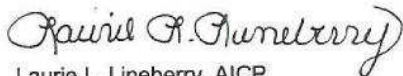
Discourages altering those features of the setting which are important in defining historic character; and

Prevents removing or relocating historic buildings or landscape features, thus destroying their historic relationship within the setting.

In summary, the proposed tower is out-of-proportion with an actual railroad water tower, it would be false history distracting from our real history, it would be an imposing structure on Interstate 8, it would alter the views of and from historic properties, and it does not meet national historic preservation standards.

If you wish to discuss any alternative sites with the City of Yuma, or other property owners in the vicinity, please coordinate with Bob Blevins, Principle Planner for Historic Preservation and Architectural Design, at 928-373-5189.

Sincerely,

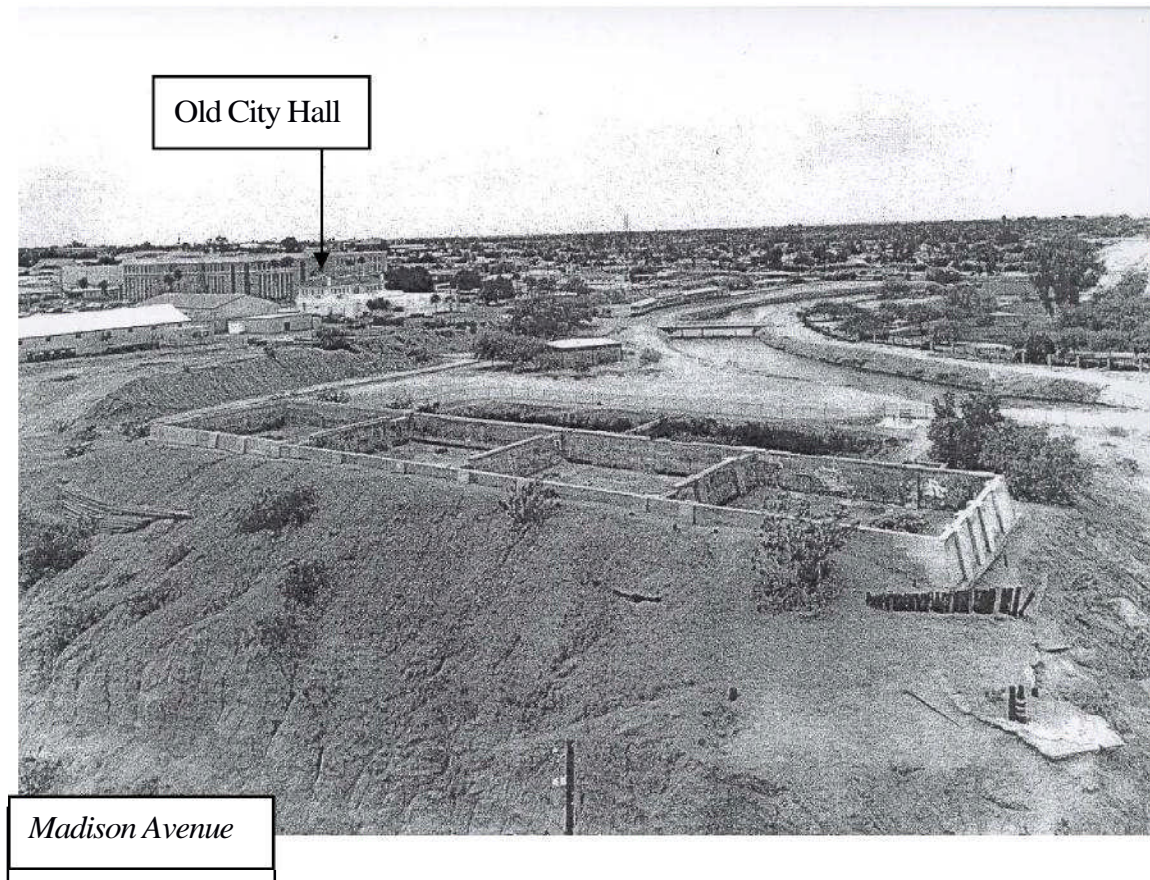


Laurie L. Lineberry, AICP
Community Development Director

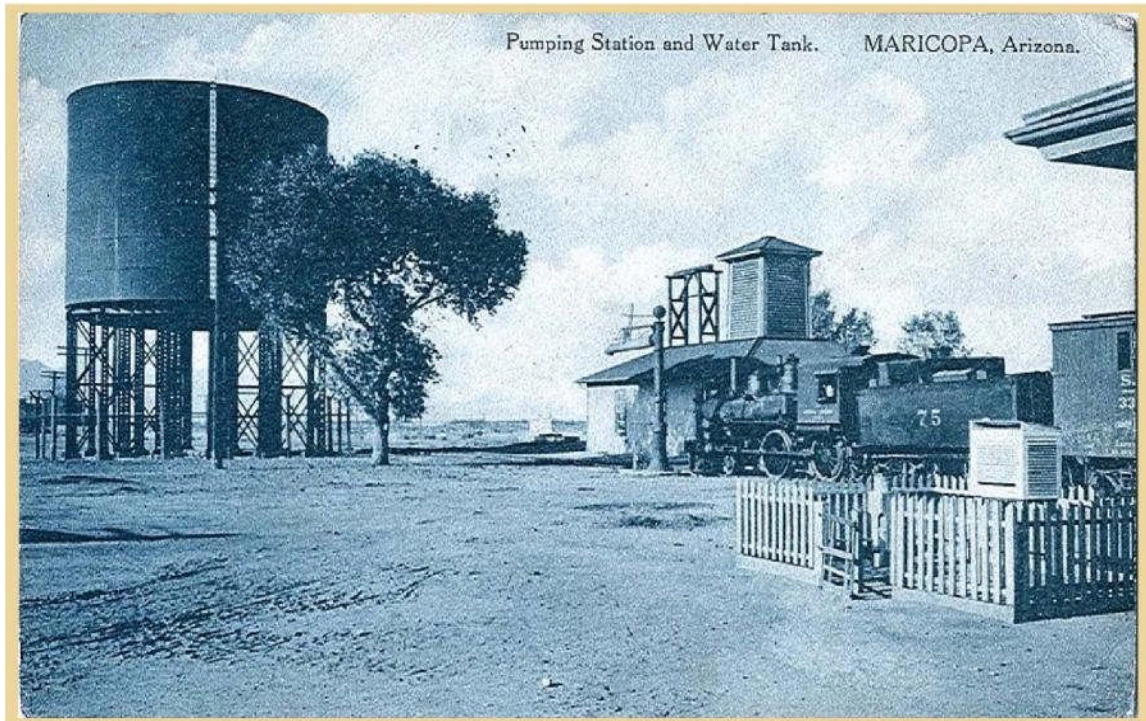
Copy: Bob Blevins, Principal Planner, Historic Preservation and Architectural Design
Charles Flynn, Executive Director, Yuma Crossing National Heritage Area
Greg Wilkinson, City Administrator

ATTACHMENT E
Historic Settling Reservoir Photo

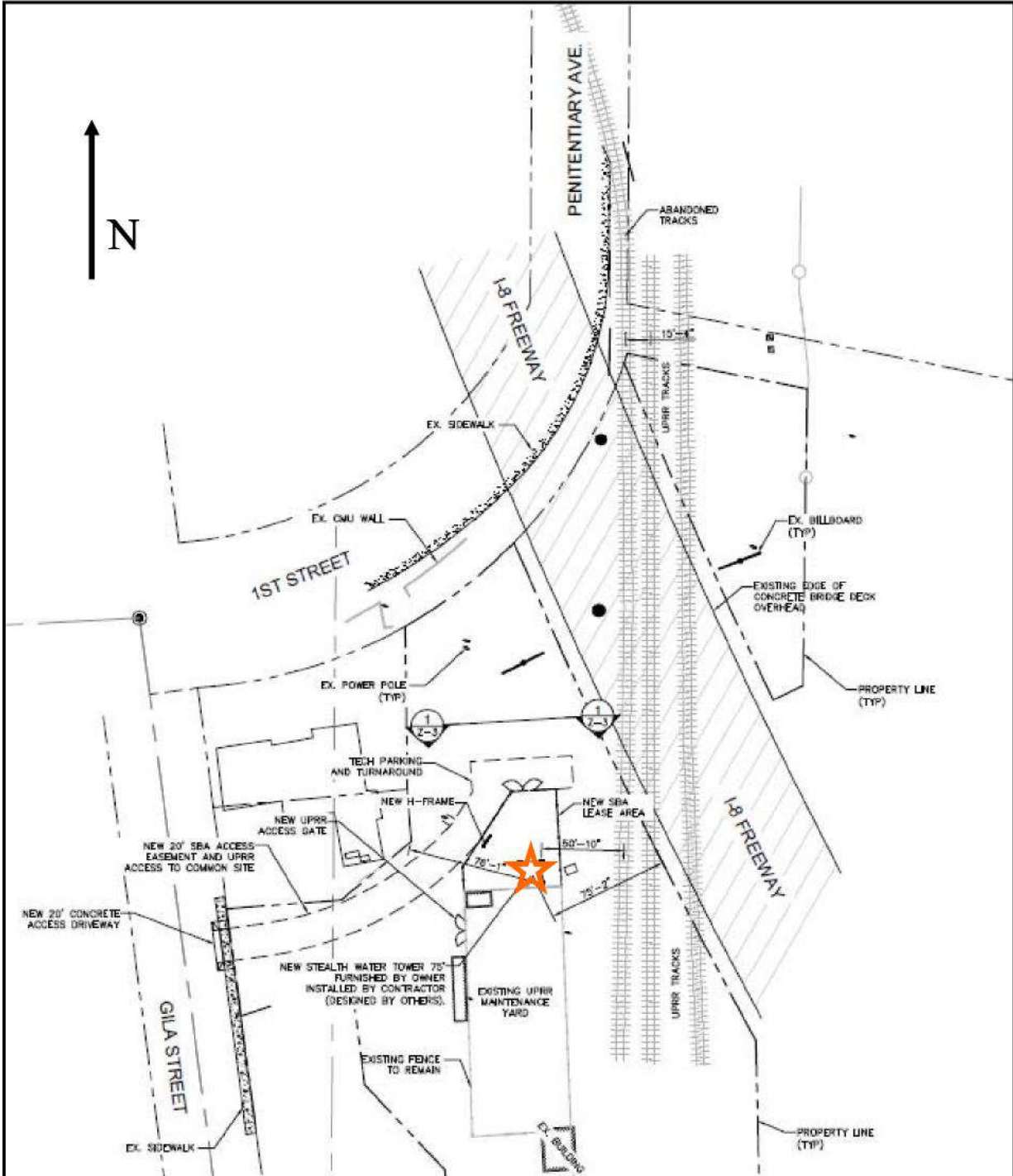
Looking Southwest



ATTACHMENT F
Period water tower in Maricopa, Arizona



ATTACHMENT G Site Plan



DH2011-030

September 28, 2011

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ATTACHMENT H
Aerial Photos



ATTACHMENT 2
ARIZONA STATE PARKS LETTER FINDING ADVERSE IMPACT



"Managing and conserving Arizona's natural, cultural and recreational resources"

24 August 2011

David Wilcox
Director of Cultural Resources
Sims & Associates, LLC
201 S Lakeline Blvd, Ste 102
Cedar Park, TX 78613

Community
Planning

AUG 29 2011

Received

RE: Proposed 75-foot self-supportive stealth water tower project, Yuma, AZ; SBA Towers, Inc.; FCC; City of Yuma; SHPO-2011-0452 (90491)

Dear Mr. Wilcox:

In a letter dated April 15, 2011, we informed you that a no adverse effect finding was warranted for the project referenced above in accordance with 36 C.F.R. Part 800, the regulations implementing Section 106 of the National Historic Preservation Act. Since that time, it has come to our attention that the City of Yuma objects to the proposed stealth water tank cellular project proposed within Yuma, Arizona. The City of Yuma contends that the proposed water tank is not in proportion to historic railroad water tanks and that it would convey a false sense of history since water for railroads was obtained from ponds.

At the time of our initial review of the project, our staff erred by misinterpreting the proposed stealth water tank as an existing facility with a proposed collocation of cellular antenna. Now that we know that the proposed water tank would be a new facility, we agree with the City of Yuma that the proposed new stealth water tank would result in an adverse effect to historic properties. Therefore, we respectfully request to re-enter National Historic Preservation Act Section 106 consultations regarding the proposed stealth water tower in Yuma, Arizona.

We look forward to your continuing consultations with our office. If you have any questions or concerns, then please do not hesitate to call me at (602) 542-7120, or e-mail me at elaurila@azstateparks.gov.

Sincerely,

Erick M. Laurila
Compliance Specialist/Archaeologist
Arizona State Historic Preservation Office

cc:

Robert Blevins, Principal Planner, Historic Preservation and Architectural Design, City of Yuma

Reg Destree, Reliant Land Services, Inc.

Janice K. Brewer
Governor

State Parks
Board Members

Chair
Tracey Westerhausen
Phoenix

Walter D. Armer, Jr.
Vail

Reese Woodling
Tucson

Larry Landry
Phoenix

Alan Everett
Sedona

William C. Scalzo
Phoenix

Maria Baier
State Land
Commissioner

Renée E. Bahl
Executive Director

Arizona State Parks
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Phoenix, AZ 85007

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